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HOUSE BILL 2536
By Kernell

AN ACT to amend Tennessee Code Annotated, Title 2; Title 3; Title 4; Title 8; Title 39; Title 53; Title 56; Title 68 and Title 71, relative to enacting the "TennCare Reform, Ethics, and Accountability Act of 2006".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is, and may be cited as, the “TennCare Reform, Ethics, Accountability and Transparency Act of 2006”.

SECTION 2. Tennessee Code Annotated, Section 71-5-128, is amended by designating the existing language as subsection (b) and adding the following amendatory language as a new subsection (a):

(a) On or after July 1, 2006, the commissioner shall not enter into any contract with any health maintenance organization to administer any aspect of the TennCare program, unless the contract provides for the organization to bear financial risk in an amount at least equal to that imposed on TennCare managed care organizations, other than TennCare Select, prior to May 1, 2002.

SECTION 3. Tennessee Code Annotated, Section 8-27-102, is hereby amended by adding the following subsection:

(d) The state insurance committee shall not enter into a contract for any services relating to the administration of the plans authorized by this chapter with any hospital and medical service corporation, insurance company, claims administrator or other organization that, if requested to administer TennCare benefits as a risk contractor under Title 71, Chapter 5, has refused to do so. This provision applies to any contract entered into, amended, or renewed on or after July 1, 2006.

SECTION 4. Tennessee Code Annotated, Section 8-27-301, is hereby amended by adding the following subsection:

(h) The local education insurance committee shall not approve any plan authorized under this chapter that is offered or administered by any hospital and medical service corporation, insurance company, claims administrator or other organization that, if requested to administer TennCare benefits as a risk contractor under Title 71, Chapter 5, has refused to do so. This provision applies to any contract entered into, amended, or renewed on or after July 1, 2006.

SECTION 5. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

71-5-149. The commissioner shall convene an advisory committee to oversee the establishment and statewide operation of disease management programs for TennCare enrollees. The committee shall consist of the following individuals or their designees:

(1) The comptroller of the treasury;

(2) The vice chancellor for medical affairs of Vanderbilt University;

(3) The chancellor and vice-president for health affairs of the University of Tennessee;

(4) The president of Meharry Medical College; and

(5) The dean of medicine and vice president of health affairs of the Quillen College of Medicine of East Tennessee State University

The committee shall advise the commissioner regarding the development and implementation of a plan for implementing an effective program of disease management, with short, intermediate, and long term objectives. The committee shall advise the commissioner regarding how to phase in the program, starting with the identification of those illnesses with the

greatest immediate potential for savings and improved care, and including recommendations for extension of the program to include additional illnesses as practicable.

SECTION 6. The comptroller of the treasury shall submit a report to the speakers of the general assembly and to the fiscal review committee by January 15, 2007, and annually thereafter until January 15, 2009, reporting on the commissioner's progress in implementing the recommendations of the advisory committee and in operating an effective program of disease management for TennCare enrollees. The advisory committee shall review the report and append thereto its comments on the matters reported by the comptroller.

SECTION 7. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

(a) The comptroller of the treasury shall enter into a consulting contract with an individual or firm with demonstrated expertise in the evaluation and design of pharmacy benefit management and cost control programs, for the following purposes:

(1) To assist the comptroller in evaluating the efficacy of TennCare's pharmacy benefit manager and TennCare's programs of prospective and retrospective drug use review, including the use of data from such programs to improve program integrity, clinical quality, and financial performance; and

(2) The recommendation and monitoring of implementation of any changes needed for the improvement of TennCare drug use review activities and the use of drug use review data to improve program integrity, clinical quality, and financial performance.

(b) The bureau of TennCare shall seek the cooperation of the Tennessee Medical Association and other willing state or local professional medical organizations to employ more effectively drug use review data to improve clinical care and reduce medical costs. The program shall involve peer counseling under the aegis of the

Tennessee Medical Association or other appropriate state or local medical societies to provide prescribers with information as to prescriptive patterns, practices, and the cost-effectiveness of drugs being prescribed.

SECTION 8. The comptroller of the treasury shall submit a report to the speakers of the general assembly and to the fiscal review committee by March 31, 2006, and by January 15 of each year thereafter, until January 15, 2009. Each such report shall evaluate the performance of the pharmacy benefit manager. Each report shall also evaluate the efficacy of TennCare drug use review activities and of TennCare's use of drug use review data to improve program integrity, clinical quality, and financial performance.

SECTION 9. Tennessee Code Annotated, Title 53, Chapter 10, Part 2, is amended by adding Sections 10 through 18 of this act as new sections to be appropriately designated.

SECTION 10. The general assembly declares it to be the public policy that in order to lower the cost of prescription drugs to its citizens, pharmacists should be able to substitute less costly therapeutically equivalent drugs or drug products for higher priced drugs or drug products. Further, it is the public policy that, in order to protect the public safety, such therapeutic substitution shall only be permitted in accordance with clinically appropriate standards and guidelines established pursuant to this act.

SECTION 11. As used in this act unless the context otherwise requires:

(1) "Finished dosage form" means that form of a drug which is, or is intended to be, dispensed or administered to a patient and requires no further manufacturing or processing other than packaging, reconstitution, or labeling;

(2) "Therapeutic equivalent" means a drug product with a different chemical structure than the drug product prescribed but which is of the same pharmacological or therapeutic class, and having the same or similar therapeutic effects and adverse reaction profiles when administered to patients in therapeutically equivalent doses; and

(3) “Prescriber” means an individual authorized by law to prescribe drugs.

SECTION 12.

(a) If the prescriber determines that substitution with a therapeutic equivalent is appropriate, a written prescription order shall bear, in the prescriber’s own handwriting, “Therapeutic Substitution Authorized” or “T.S.A.”

(b) If the prescriber determines that substitution with a therapeutic equivalent is appropriate, and that prescription order is issued verbally, the prescriber shall alert the pharmacist that substitution with a therapeutic equivalent is permitted.

SECTION 13.

(a) The commissioner of health shall appoint a therapeutic substitution committee to develop and modify as appropriate on an ongoing basis a set of guidelines to be followed by pharmacists in determining which drugs are therapeutically equivalent and may be safely substituted pursuant to this act. In addition to the commissioner or his designee, the committee shall consist of:

(1) The dean of the University of Tennessee College of Pharmacy or his designee;

(2) The dean of the College of Pharmacy of East Tennessee State University;

(3) The vice chancellor for medical affairs of Vanderbilt University or his designee;

(4) The president of Meharry Medical College or his designee;

(5) A physician nominated by the Tennessee Medical Association;

(6) A physician nominated by the Tennessee chapter of the American Academy of Pediatrics;

(7) A psychiatrist nominated by the Tennessee chapter of the American Psychiatric Association; and

(8) A mental health clinician nominated by the Tennessee Association of Mental Health Organizations.

No person may serve on the committee who has a financial interest in any pharmaceutical firm, or if service on the committee would create the appearance of a conflict of interest. The commissioner or his designee shall serve throughout his tenure as commissioner; all other members shall serve terms of three (3) years and are eligible for re-appointment for a maximum period of service of six (6) years.

(b) The committee shall develop guidelines to be followed by pharmacists in determining when therapeutic substitution is safe and appropriate. The committee shall promulgate such guidelines as rules pursuant to the Uniform Administrative Procedures Act compiled at Tennessee Code Annotated, Title 4, Chapter 5 and shall amend the rules as necessary to update the guidelines to ensure sound clinical practice.

SECTION 14.

(a) When a pharmacist receives a written or verbal prescription order, and the prescriber has authorized therapeutic substitution for the drug prescribed as required in Section 12, the pharmacist shall determine in accordance with the guidelines established pursuant to Section 13 whether another drug or combination of drugs would be therapeutically equivalent and would be less expensive. The pharmacist shall dispense the least expensive therapeutic equivalent in stock, or less expensive therapeutic equivalent covered under the patient’s drug plan.

(b) In the event a pharmacist dispenses a therapeutic equivalent as provided herein, the pharmacist shall notify the prescriber or the prescriber’s representative of the interchange as soon as practical, but no later than twenty four (24) hours.

(c) If the prescriber determines after learning of the substitution that, notwithstanding his previous authorization of therapeutic substitution, the substituted drug or drugs will not be as safe or effective for the patient as the drug that was prescribed, he may direct the prescriber to dispense the prescribed drug.

SECTION 15. A pharmacist who selects a therapeutic equivalent for substitution pursuant to Section 14 has the same responsibility for the selected drug as such pharmacist would in dispensing a prescription for the drug prescribed by its trade or brand name.

SECTION 16.

(a) The manufacturer, packager, or distributor of any human use legend drug sold, delivered, or offered for sale in the state of Tennessee shall have printed on the label of the immediate container of the drug the name and address of the manufacturer, packager, or distributor of the finished dosage form of the drug.

(b) The pharmacist shall notify the patient of the substitution with a generic equivalent or therapeutic equivalent by noting the substitution on the prescription label. This subsection does not apply to prescriptions dispensed for inpatients of a health-related facility.

SECTION 17. Every pharmacy in the state shall have posted a sign in a prominent place that is in clear, unobstructed view that shall read: “Tennessee law requires pharmacists in some cases to dispense a less expensive generic or therapeutic equivalent for the drug prescribed unless your prescriber directs otherwise. In such event the substitution will be noted on your prescription label. Ask your pharmacist.”

SECTION 18. In making substitutions as allowed by this act, the pharmacist may use drug products manufactured within the territorial limits of any state of the United States or any other country if such products have been approved by the federal food and drug administration.

SECTION 19. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following section:

71-5-151. The commissioner shall annually calculate the total average cost per month of providing TennCare coverage to recipients who are employed. The commissioner shall cause an invoice to be sent to each employer who employs more than twenty-five (25) TennCare recipients, accompanied by a request for the employer's voluntary contribution of an amount equal to the average monthly cost of TennCare coverage times the total number of months of TennCare coverage received by the employer's employees during the preceding year. By the January 15 each year, the commissioner shall report to the general assembly and to the public the identity of such employers, the cost of benefits provided through this part to their employees during the preceding fiscal year, and the amount contributed by each such employer in lieu of taxation. Nothing herein shall authorize the release of confidential information that will identify individual TennCare enrollees. Any funds received from employers pursuant to this section shall be used for TennCare purposes in accordance with federal law and the terms of the TennCare waiver.

SECTION 20. Tennessee Code Annotated, Section 71-5-148, is amended by adding the following subsections:

(c) The commissioner of finance and administration, in cooperation with the commissioner of health and the commissioner of mental health and developmental disabilities, shall maximize the cost-effectiveness of funds appropriated and expended under this chapter by spending them in accordance with federal criteria that will enable such state expenditures to qualify for matching federal Medicaid funds. The commissioner shall expend safety net funds without obtaining federal match payments only if the medically necessary services being funded serve a compelling public health

purpose and are of a type that, by federal law, is never covered for eligible Medicaid patients.

(d) The comptroller of the treasury shall submit an annual report by January 15 to the speaker of the house of representatives, to the speaker of the senate and to the fiscal review committee, on the use of safety net funds appropriated under this part. The comptroller shall evaluate whether the funds were used with maximum effectiveness through expenditures that qualified for matching federal Medicaid funds. In the event that any safety net funds were expended in a manner that did not qualify for federal Medicaid matching funds, the comptroller shall evaluate the purported justification for such expenditures and shall make recommendations whether similar funding could be more effectively used in the future.

SECTION 21. Tennessee Code Annotated Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

(a) Each hospital that receives essential access hospital payments under this part shall comply with the requirements of this section.

(b) Each hospital shall annually submit to the TennCare bureau a report accounting for its use of such payments. Each hospital's report shall be available for public inspection at the facility and shall be posted on the website of the TennCare bureau. The report, which shall be subject to audit by the comptroller of the treasury and shall be filed under penalty of perjury, shall contain the following information:

(1) The amount of essential care payments received by the hospital during the most recent accounting period for which audited financial reports are available;

(2) The amount of Medicare disproportionate share hospital payments received by the hospital during the same period;

(3) The amount of any local government or other public funding received by the hospital during the same period, other than reimbursement for the care of identified individual patients;

(4) The cost of unreimbursed essential care provided by the facility during the same period. Such care consists of the aggregate cost of medically necessary patient care provided by the facility, exclusive of:

(A) Emergency care that the hospital is legally obligated to provide regardless of whether it receives essential access payments;

(B) Care for which the facility has received full or partial reimbursement from a third party public or private health plan and has agreed to accept such reimbursement as payment in full;

(C) Services which are covered by a public or private research grant; and

(D) Care which has been reimbursed by the patient or other individual acting on the patient's behalf.

The cost of such care shall be calculated by multiplying the charges for the care by the cost to charge ratio reported on the hospital's joint annual report filed pursuant to section 68-11-310.

(5) The amount of unreimbursed essential care provided by the hospital, stated as a percentage of the hospital's net patient revenues reported on its joint annual report filed pursuant to section 68-11-310; and

(6) Such additional information as the commissioner may by regulation require.

(c) Each hospital shall conspicuously post the following statement in public areas of its emergency department, admitting office, and patient accounts office, and shall print in legible text on all patient bills the following statement:

This hospital receives funding from Tennessee taxpayers through special payments from the TennCare bureau. This hospital receives these payments, which are in addition to payments for the care of individual TennCare patients, because the hospital qualifies as an “Essential Access Hospital”. In return for these payments, this hospital has certified to the state of Tennessee that it provides access to essential hospital care to members of the public. These services are in addition to the emergency medical services required of all Tennessee hospitals by federal and state law. This hospital’s most recent report as an essential access hospital is available for public inspection on the TennCare Bureau website, or you may contact _____ to see the report on our premises.

If you have reason to believe that this hospital is not assuring access to essential services for members of the public, or if you have any questions regarding the hospital’s satisfaction of its duty to the public as an essential access hospital, you may contact the TennCare Office of Inspector General at [toll-free telephone number].

SECTION 22. Tennessee Code Annotated, Section 71-5-2505, is amended by deleting the language "and" at the end of subdivision (10), deleting the language "." at the end of subdivision (11), and by substituting instead the following:

; and

(12) Receive and investigate complaints against a hospital that charge that the hospital has received essential access hospital payments under this title but is failing or

refusing to provide access to essential care for patients who lack adequate insurance or means to pay for their own care.

SECTION 23. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

71-5-152. Any recipient who medically qualifies for TennCare coverage of either intermediate care facility for the mentally retarded (ICFMR) services or for level 1 or level 2 nursing facility services may elect to receive instead a voucher equal to eighty percent (80%) of the projected cost of such care and may, instead, use such voucher to obtain home and community-based services, as defined in § 71-5-103(4). If federal financial participation is not available for such vouchers, then the voucher shall be equal to eighty percent (80%) of the projected cost to the state of such institutional care.

SECTION 24. Tennessee Code Annotated Title 71, Chapter 5, Part 1, is further amended by adding the following provision as a new section:

71-5-153. Should persons who have been classified at any time since January 1, 2003, by the department of mental health and developmental disabilities or the bureau of TennCare as seriously and persistently mentally ill be denied mental health or medical services under this part due to changes made by the state in the program, the state shall reimburse any city, county, hospital, clinic, jail or juvenile detention facility for the expense of providing alternative care and services to such persons. An entity entitled to reimbursement by the state under this provision shall submit a claim for payment to the commissioner of finance and administration on a form promulgated by the commissioner for that purpose. Any such claim shall require the certification of a licensed mental health professional that the services provided to the person were incurred by reason of the person’s severe and persistent mental illness. An entity seeking and accepting payment under this provision shall be subject to audit by the comptroller of the treasury.

SECTION 25. Tennessee Code Annotated Title 71, Chapter 5, Part 1, is amended by adding the following provisions as a new section:

71-5-154. There shall be open and continuous enrollment in TennCare of persons who are uninsurable or medically eligible because they have a pre-existing medical condition that prevents them from obtaining commercial health insurance. Unless an application is submitted with documentation that the person has a medical condition that has been found by the TennCare bureau to prevent persons from obtaining commercial coverage, the TennCare bureau shall contract with an independent medical underwriter to review each application to make an individualized determination whether the applicant's condition or combination of conditions renders him commercially uninsurable. Any person with an income above two hundred percent (200%) of the most recent poverty income guidelines issued by the federal department of health and human services shall pay a premium which, when matched by federal financial participation, if any, is determined by the comptroller of the treasury by annual actuarial study to be sufficient to cover the costs of participation of persons of similar demographic characteristics. Uninsurable or medically eligible persons with incomes below two hundred percent (200%) of the most recent poverty income guidelines issued by the federal department of health and human services shall pay premiums set on a sliding scale that reflects their ability to pay.

SECTION 26. Tennessee Code Annotated Title 71, Chapter 5, Part 1, is amended by adding the following provisions as a new section:

71-5-155. Persons who meet the criteria applied prior to April 1, 2005 in determining TennCare eligibility under the Medicaid medically needy, or spend-down, category of coverage shall be eligible to receive TennCare coverage for the same length of time for which they would have qualified under the criteria in effect prior to April 1,

2005. In meeting the eligibility criteria, such individuals may count towards the satisfaction of their financial liability any medical expenses or debts that could have been counted under rules in effect prior to April 1, 2005.

SECTION 27. Tennessee Code Annotated Title 71, Chapter 5, Part 1, is amended by adding the following provision as a new section:

71-5-156. Individuals under age nineteen (19) who are not otherwise eligible for TennCare shall be eligible to receive TennCare coverage if they do not have health insurance and their family incomes are less than two hundred percent (200%) of the most recent poverty income guidelines issued by the federal department of health and human services.

SECTION 28. Tennessee Code Annotated Title 71, Chapter 5, Part 1, is amended by adding the following provision as a new section:

71-5-___. The TennCare bureau shall cover additional prescription drugs or their less costly over-the-counter equivalents, if any, without regard to any numerical limit imposed by other law or regulation, whenever such drug therapy is:

(1) Necessary to protect the life or safety of the patient;

(2) Prescribed as part of a program of disease management; or

(3) Likely to be cost-effective, taking into account the risk to TennCare of incurring other direct or indirect expenses if the patient is denied the prescribed drug therapy.

SECTION 29. Tennessee Code Annotated, Section 71-5-144, is amended by deleting subsections (b) and (c) in their entirety and substituting therefor the following language:

(b) To be determined to be medically necessary, a service must be:

(1) Required to identify or treat a TennCare enrollee's illness or injury;

(2) Consistent with the symptoms or diagnosis and treatment of the enrollee's condition, disease, ailment or injury;

(3) Appropriate with regard to standards of good medical practice;

(4) Not solely for the convenience of an enrollee, physician or other provider;

(5) The most appropriate supply or level of services which can safely be provided to the enrollee;

(6) The most cost-effective type and quantity of treatment for the enrollee's condition, illness, ailment or injury, as determined by comparing the prescribed service's anticipated direct and indirect costs to the TennCare program against the direct and indirect costs to the TennCare program of any alternative, equally effective courses of treatment that are available; and

(7) Not be an experimental or investigational service.

(c) In the case of an enrollee under the age of twenty-one (21), services shall be deemed to be medically necessary if they are required by federal laws and regulations to be covered as early and periodic, screening, diagnosis and treatment (EPSDT) services.

SECTION 30. Tennessee Code Annotated, Section 71-1-111, is amended by deleting the section in its entirety and substituting therefor the following:

(a) Except as provided in subsection (c), the commissioner has the power to conduct or cause to be conducted hearings relating to the fact determination that the department is authorized or required to make; provided, that the commissioner, and any officer or employee of the department upon written authorization from the commissioner, has the power to administer oaths and affirmations, take depositions, issue subpoenas, and require the production of any books and records that may be necessary.

(b) In any hearing or appeal conducted by the commissioner or other employee of the department involving benefits or assistance administered by the department, the appellant shall not be denied a fair opportunity under the Uniform Administrative Procedures Act, as compiled in Title 4, Chapter 5, to establish that he or she is eligible by law to receive such benefits or assistance. The commissioner or other employee of the department conducting the hearing and deciding the appeal shall not deny benefits or assistance for which the person is shown to be eligible.

(c) Neither the commissioner nor any officer or employee of the department shall have the authority to conduct hearings or decide appeals that involve TennCare eligibility or the coverage of TennCare medical services under Chapter 5 of this title.

SECTION 31. Tennessee Code Annotated, Section 71-5-112, is amended by deleting the section in its entirety and substituting therefor the following:

Whenever a hearing concerning eligibility determinations is required by state or federal law or constitutional provision, the single state agency designated under Title XIX of the Social Security Act shall have the authority to decide such cases. An administrative judge employed in the office of the secretary of state shall preside over such hearings and shall make initial orders in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 32. Tennessee Code Annotated, Section 71-5-113, is amended by deleting subsection (a) in its entirety and substituting therefor the following:

(a) Except as provided by subsection (b), whenever a hearing concerning matters other than eligibility is required by state or federal law or constitutional provision, the single state agency designated under Title XIX of the Social Security Act shall have the authority to decide such cases. An administrative judge employed in the office of the secretary of state shall preside over such hearings and shall make initial orders in

accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 33. Tennessee Code Annotated, Section 71-5-114, is amended by deleting the section in its entirety and substituting therefor the following:

The administrative judge shall have authority to issue subpoenas, effect discovery, issue protective orders and regulate the course of proceedings as provided by the Uniform Administrative Procedures Act, as compiled in Title 4, Chapter 5.

SECTION 34. Tennessee Code Annotated, Section 71-5-117, is amended by substituting a semicolon for the period at the end of the last sentence of subsection (a) and by adding thereafter the following:

provided, however, that a person who in good faith appeals the termination of TennCare medical services or coverage shall not be liable for the cost of services received pending appeal and shall be subject to recoupment by TennCare only upon a finding by the administrative law judge that the appeal was pursued in bad faith.

SECTION 35. Tennessee Code Annotated, Section 56-1-211, is amended by adding the following subsection:

(c) The commissioner shall contract with an independent, non-profit charitable entity with a record of demonstrated expertise in providing information and assistance to patients who are uninsured, have commercial health insurance or are enrolled in the TennCare program. Subject to the limits of any appropriation by the general assembly, the commissioner may contract with such entity to:

(1) Advise individuals regarding the availability of health care or health coverage;

(2) Assist individuals regarding the use of appeals for resolving disputes with their health program or insurer; and

(3) Advise individuals regarding the interplay between different types of coverage available to them through commercial insurance, TennCare or Medicare.

SECTION 36. Tennessee Code Annotated, Title 3, Chapter 6, is amended by adding the following provision as a new section:

3-6-116. Each lobbyist who is employed by or acts on behalf of any entity or individual which has or seeks a contract or subcontract to provide goods or services in connection with the TennCare program shall file semi-annual reports with the registry of election finance. The statements shall be made under penalty of perjury, shall be available for inspection upon request, and shall be posted electronically on the websites of the registry and the TennCare bureau. The disclosures shall be in a form prescribed by the registry of election finance and shall contain at least the following information:

(1) Any communications or transactions defined by law as lobbying that:

(A) Relate to the administration of any aspect of the TennCare program, and

(B) Were conducted with:

(i) Any member of the general assembly or the member's staff;

(ii) The governor or the governor's staff; or

(iii) Any person in a management position with any state agency, as identified by the registry of election finance, with the ability to award, monitor or enforce, or to influence the awarding, monitoring or enforcement of, any TennCare contract;

(2) The amount and date of any payment, gift, donation, loan or other thing of value made by the lobbyist or at his suggestion to:

(A) Any member of the general assembly or the member's staff;

(B) The governor or any member of the governor's staff;

(C) Any person in a management position with any state agency, as identified by the registry of election finance, with the ability to award, monitor or enforce, or to influence the awarding, monitoring or enforcement of, any TennCare contract; or

(D) The spouse, child or sibling of any person listed in this subsection or any entity in which any such person owns a material financial interest; and

(3) Any business relationship between the lobbyist and any individual or entity identified in subdivision (2).

SECTION 37. Tennessee Code Annotated Title 71, Chapter 5, Part 1, is amended by adding the following provision as a new section:

71-5-157.

(a) Disclosures as required by this section shall be filed with the registry of election finance by the following persons:

(1) Each member of the general assembly;

(2) The governor; and

(3) The senior manager of any state agency, as identified by the registry of election finance, with the ability to award, monitor or enforce, or to influence the awarding, monitoring or enforcement of, any TennCare contract.

(b) Each person required by this section to make disclosures shall file semi-annual disclosure statements with the registry of election finance. The statements shall be made under penalty of perjury, shall be available for

inspection upon request and shall be posted electronically on the websites of the registry and the TennCare bureau. The disclosures shall be in a form prescribed by the registry of election finance and shall contain at least the following information:

(1) Any communications or transactions, defined by law as lobbying, with any representative, employee, attorney or registered lobbyist of any TennCare contractor or bidder;

(2) The amount and date of any payment, gift, donation, loan or other thing of value received by the person, his spouse, child or sibling, or by any entity in which any of them owns a material financial interest from or on behalf of:

(A) Any entity or individual which has a contract or subcontract to provide goods or services in connection with the TennCare program, or such individual's or entity's lobbyist or attorney; or

(B) Any entity or individual, or such individual's or entity's lobbyist or attorney, seeking a contract or subcontract, or seeking information regarding a contract or subcontract, to provide goods or services in connection with the TennCare program.

(3) Any business relationship between the person, his spouse, child or sibling, or any entity in which any of them owns a material financial interest, and any entity or individual which has or seeks a contract or subcontract to provide goods or services in connection with the TennCare program, or such individual's or entity's lobbyist or attorney.

SECTION 38. Tennessee Code Annotated Title 71, Chapter 5, Part 1, is amended by adding the following provision as a new section:

71-5-158. The TennCare bureau shall disclose to the select oversight committee on TennCare and to the TennCare office of inspector general and shall post on its website:

(a) Any instance in which a liquidated penalty, payment withhold or other contractual sanction is imposed on any TennCare contractor;

(b) Any information received by the bureau regarding any instance in which a contractor is charged in Tennessee or any other jurisdiction with any violation of law.

(c) Any information received by the bureau regarding any contract cancellation, penalty assessment, or suit by or in the name of any federal, state, or local government agency against a TennCare contractor.

SECTION 39. Tennessee Code Annotated Title 71, Chapter 5, Part 1, is amended by adding the following provision as a new section:

71-5-159. Any entity that contracts with any agency of state government to provide goods or services in connection with the TennCare program shall file quarterly reports with the select oversight committee on TennCare and the TennCare office of inspector general, and the TennCare bureau shall post such reports on its website. Each contractor shall disclose:

(1) Any instance in which the contractor, its parent, affiliate, or subsidiary is charged in Tennessee or any other jurisdiction with any violation of law; and

(2) Any instance of a contract cancellation, penalty assessment, or suit by or in the name of any federal, state, or local government agency involving the contractor, its parent, affiliate, or subsidiary.

SECTION 40. Tennessee Code Annotated, Section 71-5-130, is amended by adding the following language as a new section (c):

(c) In determining the amount of payment to be made to nursing homes under this chapter, the comptroller of the treasury shall exclude, and shall not recognize as a reimbursable cost, any amounts paid, whether as dues, contributions, assessments, or otherwise, to any trade association which lobbies on behalf of such nursing homes or the industry to which they belong; provided, however, that the reasonable cost of educational programs purchased from such trade association may be recognized and reimbursed, to the extent that the home is able to document that such costs do not exceed the fair market value of such programs.

SECTION 41. If new federal waiver authority is determined by the secretary of health and human services to be needed for the implementation of any provision of this act, the commissioner of finance and administration shall seek that authority.

SECTION 42. If any provision of this act or the application thereof to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 43. Sections 2, 3 and 4 of this act shall take effect July 1, 2006, and all other provisions of this act shall take effect upon becoming law, the public welfare requiring it.